

PATENT APPLICATION SERIAL NO. \_\_\_\_\_

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

11/03/2003 KBETEMAI 00000003 500471 10696871

01 FC:1001 43.00 DA 727.00 OP  
02 FC:1202 270.00 DA

12/31/2003 EEKUBAY1 00000011 10696871

01 FC:2001 385.00 OP  
02 FC:2202 135.00 OP

Adjustment date: 12/31/2003 EEKUBAY1  
11/03/2003 KBETEMAI 00000003 500471 10696871  
01 FC:1001 43.00 CR -727.00 OP

Adjustment date: 12/31/2003 EEKUBAY1  
11/03/2003 KBETEMAI 00000003 500471 10696871  
02 FC:1202 270.00 CR

Repln. Ref: 12/31/2003 EEKUBAY1 0009581100  
DAH:500471 Name/Number:10696871  
FC: 9204 \$207.00 CR

PTO-1556  
(5/87)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Cory Watkins et al.

Examiner: Unassigned

Serial No.: 10/696,871

Group Art Unit: Unassigned

Filed: October 30, 2003

Docket: A126.108.102

**Due Date: January 30, 2004**

Title: CONFOCAL 3D INSPECTION SYSTEM AND PROCESS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir/Madam:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet containing Certificate of Mailing (1 pg.).
- ☒ Request for Refund Under 37 C.F.R. §1.26 (Including Improper Charge of Deposit Account) and Written Confirmation of Status as a Small Entity (4 pgs.).
- ☒ Printout of Deposit Account Statement for 50-0471 (1 pg.).
- ☒ Return Postcard.

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate. At any time during the pendency of this application, please charge any additional fees or credit overpayment to Deposit Account No. 500471.

**Customer No. 000037974**

By: 

Name: Timothy A. Czaja

Reg. No.: 39,649

**CERTIFICATE UNDER 37 C.F.R. 1.8**

The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first-class mail, in an envelope addressed to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 16 day of December, 2003.

By: 

Name: Timothy A. Czaja

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Cory Watkins et al.

Examiner: Unassigned

Serial No.: 10/696,871

Group Art Unit: Unassigned

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**REQUEST FOR REFUND UNDER 37 C.F.R. §1.26 (INCLUDING IMPROPER CHARGE  
OF DEPOSIT ACCOUNT) AND WRITTEN CONFIRMATION OF  
STATUS AS SMALL ENTITY**

Mail Stop 16  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir/Madam:

**I. Confirmation Of Small Entity Assertion**

- ☐ Attached is an assertion of small entity status in this application.
- ☒ An assertion of small entity status was filed in the parent application on July 16, 2002.
- ☒ In the event the previous assertion of small entity status is deemed insufficient, the undersigned hereby confirms that small entity status is entitled to be asserted for the application and that Applicant is a small entity.

**II. Refund Request**

This is a Request for Refund, with respect to the charge to Deposit Account No. 50-0471, shown on the November 2003 Statement (attached), for charges made on this application in the amounts of \$270.00 and \$43.00 on November 3, 2003, as well as a Request for Refund for overpayment in the amount of \$207.00 for the filing fee paid on October 30, 2003.

**Request for Refund Under 37 C.F.R. §1.26...**

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**III. Fee Paid for Which Refund Requested**

	Amount of Refund Requested
<input checked="" type="checkbox"/> Filing Fee (deposit account charge)	\$43.00
<input checked="" type="checkbox"/> Claims in excess of 20 (\$270.00 deposit account charge and \$207.00 filing fee overpayment)	\$477.00
<input type="checkbox"/> Surcharge for filing the basic fee on a date later than the filing date of the application (37 CFR §1.16(e) or 37 CFR §1.16(l))	\$
<input type="checkbox"/> Surcharge for filing the oath or declaration on a date later than the filing date of the application (37 CFR §1.16(e))	\$
<input type="checkbox"/> Surcharge for filing the basic filing fee on a date later than the filing date of the provisional application (37 CFR §1.151(c)(1) and 37 CFR §1.16(l))	\$
<input type="checkbox"/> Surcharge for filing the cover sheet on a date later than the filing date of the provisional application (37 CFR §1.51(c)(1) and 37 CFR §1.16(l))	\$
<input type="checkbox"/> Extension of Term	\$
<input type="checkbox"/> Issue Fee	\$
<input type="checkbox"/> Patent Maintenance Fee	
<i>specify:</i>	
<input type="checkbox"/> First maintenance fee	\$
<input type="checkbox"/> Second maintenance fee	\$
<input type="checkbox"/> Third maintenance fee	\$
<input type="checkbox"/> Patent Maintenance Fee Surcharge	\$
<input type="checkbox"/> Other	\$
<b>TOTAL REFUND REQUESTED:</b>	<b>\$520.00</b>

**IV. Explanation of Overpayment and Why Contested Charge is in Error**

The above-identified application (hereinafter "Pending Application") was filed on October 30, 2003 as a continuation of application Serial No. 10/196,335 filed July 16, 2002 (hereinafter "Parent Application"). The Parent Application properly claimed small entity status, and the Pending Application properly claimed priority to the Parent Application. A Preliminary Amendment was included with the initial Pending Application filing documentation, resulting in thirty-five (35) pending claims, one of which is an independent claim. On the Transmittal Sheet

**Request for Refund Under 37 C.F.R. §1.26...**

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associated with the Pending Application's filing documentation, a fee calculation inaccurately denoted that thirty-eight (38) claims were pending (instead of thirty-five (35)) and contained a calculation error for "claims in excess of twenty". In particular, the fee for "claims in excess of twenty" was recited as being "\$342.00". It is believed that the erroneous basis for this calculation was  $18 \times \$19.00$  (i.e., incorrect statement that thirty-eight claims were being presented, and thus 18 claims over 20, multiplied by \$19.00 instead of \$9.00). The correct fee for claims in excess of twenty should be \$135.00 (i.e., fifteen claims in excess of twenty multiplied by \$9.00). As a result of the unintentional errors, the fee calculation showed a filing fee amount of \$727.00 (i.e., \$385.00 basis filing fee plus \$342.00 for claims in excess of twenty). A check in the amount of \$727.00 was included with the Pending Application's filing documentation. Because Applicant was and is entitled to small entity status, and because only fifteen claims in excess of twenty were presented, the correct filing fee should be \$520.00 (\$385.00 basic filing fee plus \$135.00 for claims in excess of twenty). As a result, Applicant is entitled to a refund of \$207.00 for the payment submitted with the initial filing (i.e., \$727.00 - \$520.00).

In addition to the filing fee, charges were made to Deposit Account No. 50-0471 ("the Deposit Account") on November 3, 2003 relating to filing of the Pending Application, as evidenced by the attached print-out of a Deposit Account Statement for Deposit Account No. 50-0471. It is believed that the basis for these charges is as follows. It is believed that the U.S. Patent and Trademark Office – Receiving Office did not confirm the small entity status associated with the Pending Application as otherwise provided by the Parent Application. As a result, large entity rates were asserted against the Pending Application. In particular, the large entity basic filing fee is \$770.00. Because the Pending Application filing documentation included a check for \$727.00, a charge of \$43.00 (i.e., \$770.00 - \$727.00) was made against the Deposit Account. Further, because there were fifteen claims in excess of twenty and in light of the large entity rate of \$18.00 for each claim in excess of twenty, a second charge of \$270.00 (i.e.,  $15 \times \$18.00$ ) was made against the Deposit Account. Regardless, of the precise basis, however, because Applicant qualified for small entity status and because the initial filing fee more than covered the small entity filing fees, the \$43.00 and \$270.00 charges against the Deposit Account were improper.

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In the event the claim of small entity status provided in the Parent Application is viewed as not extending to the Pending Application, Applicant respectfully notes that with this filing, small entity status has been confirmed and positively asserted. As such, it is respectfully requested that the initial overpayment of \$207.00 and Deposit Account charges of \$43.00 and \$270.00 (total of \$520.00) be refunded.

#### V. Manner of Refund

Please make refund by crediting:

- ☒ Deposit Account No. 50-0471  
☐ Credit card as shown on the attached credit card information authorization form (PTO-2038).  
☐ Refunding overpayment.

Respectfully submitted,

Cory Watkins et al.,

By their attorneys

DICKE, BILLIG & CZAJA, PLLC  
Fifth Street Towers, Suite 2250  
100 South Fifth Street  
Minneapolis, MN 55402  
Telephone: (612) 573-2004  
Facsimile: (612) 573-2005

Date: December 16, 2003  
TAC:jmc

By: Timothy A. Czaja  
Timothy A. Czaja  
Reg. No. 39,649

<b>CERTIFICATE UNDER 37 C.F.R. 1.8:</b> The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this: <u>16</u> day of <u>December</u> , 2003. By: <u>Timothy A. Czaja</u> Name: <u>Timothy A. Czaja</u>
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